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January 11, 2010

**VIA FEDERAL EXPRESS**

Craig Whitenack, Civil Investigator  
United States Environmental Protection Agency  
Region IX, Southern California Field Office  
600 Wilshire Avenue, Suite 1420  
Los Angeles, California 90017

RE: YOSEMITE CREEK SUPERFUND SITE, SAN FRANCISCO, CALIFORNIA  
RESPONSE TO 104(E) INFORMATION REQUEST

Dear Mr. Whitenack:

This letter responds to the October 15, 2009 request for information ("RFI") of the United States Environmental Protection Agency ("EPA") to Syngenta Crop Protection, Inc. ("Syngenta") with regard to the Yosemite Creek Superfund site (the "Site"). More particularly, the RFI seeks information regarding generator Zoecon Corp., a corporate predecessor of Syngenta. Subject to both the general and specific objections noted below, and without waiving these or other available objections or privileges, Syngenta submits the following in response to the RFI and in accordance with the January 11, 2010 due date that EPA has established for this response.

As will be discussed further below, Syngenta's only connection with the Yosemite Creek Superfund Site and the related Bay Area Drum Company State Superfund Site results from the fact that Syngenta is the corporate successor to Zoecon and Sandoz Agro, Inc., which conducted operations at a facility at 1990 East Bay Road in East Palo Alto, California between 1972 and 1993. Zoecon Corp. purchased that facility from Rhone-Poulenc, Inc. in 1972. Sandoz Agro, Inc., in turn, was the product of the 1984 purchase of Zoecon Corp. by Sandoz, Inc., and the subsequent 1986 merger of the Chemical Division of Zoecon into Sandoz Crop Protection Corporation. Sandoz Crop Protection Corporation changed its name to Sandoz Agro, Inc. in 1991. Sandoz Agro, Inc. continued to conduct operations at the East Palo Alto facility until 1993, when it sold the property back to Rhone-Poulenc, Inc. and the improvements on the property to Catalytica, Inc. As you know, the California Department of Toxic Substances Control ("DTSC") conducted an extensive investigation of the Bay Area Drum Site, including

an information request dated May 21, 1992 addressed to Zoecon Corp. As the then-successor to Zoecon Corp., Sandoz Agro, Inc. responded to DTSC's information request on June 18, 1992 with information indicating that Zoecon Corp. had shipped a total of 258 empty drums to the Bay Area Drum Company for reconditioning between 1980 and 1982. All these drums were shipped from Zoecon's facility at 1990 East Bay Road in East Palo Alto, California.

In 1997, Sandoz Agro, Inc. merged with Ciba-Geigy Corporation to form Novartis Corporation. The crop protection elements of Novartis Corporation, including those of the former Sandoz Agro, Inc. were reorganized into Novartis Crop Protection, Inc., a subsidiary of Novartis Corp. Novartis subsequently spun off Novartis Crop Protection, Inc., which merged with Zeneca Crop Protection, Inc. to form a new corporation named Syngenta Crop Protection, Inc., a subsidiary of Syngenta, A.G. of Basle, Switzerland.

The point of the foregoing recital of the complex sequence of corporate mergers is that Syngenta today has very limited records or other information regarding the operations of the former East Palo Alto facility. Syngenta has located a copy of Sandoz Agro, Inc.'s 1992 response to DTSC's information request; that response was compiled while Sandoz Agro, Inc. still operated at the East Palo Alto facility prior to its sale in 1993, and as such, still had access to that facility's on-site records as well as its knowledgeable employees. Syngenta no longer has that former facility's records, and does not know their whereabouts. Syngenta has located a single current employee with some recollections concerning the operations at the former East Palo Alto facility and has obtained his input regarding the questions in the RFI. The employee is John Licata, currently Operational HSE and QA Head for Syngenta. Mr. Licata did not work at the East Palo Alto facility, but had corporate HSE responsibilities that included that facility and was involved in the preparation of Sandoz Agro's 1992 response to DTSC. Other than that 1992 response, the most nearly relevant documentary information Syngenta has been able to locate is the "Agreement of Purchase and Sale," dated November 1, 1993, which effected the resale of the property to Rhone-Poulenc, Inc. A copy of that Agreement and its attachments is enclosed, along with a copy of Sandoz Agro, Inc.'s 1992 response; both will be referred to in the following responses to the RFI.

In responding to the RFI, Syngenta has undertaken a diligent and good faith search for, and review of, documents and information in its possession, custody or control and that are relevant to this matter. However, the RFI purports to seek a great deal of information that is not relevant to the Site or alleged contamination at the Site. For example, we understand the basis of the purported connection between the Site and the former Bay Area Drum State Superfund Site at 1212 Thomas Avenue in San Francisco, California (the "BAD Site"), and thus, we understand the relevance that shipments of drums or wastes to the BAD site has for the Site. However, certain RFI questions seek information regarding facilities other than the BAD Site, including *all* facilities in California and *all* facilities outside California that shipped drums or other containers to *any* location in the entire state of California. These other facilities throughout California and the United States have no nexus to the Site. Because such questions are not relevant to the Site, they are beyond the scope of EPA's authority as set forth in Section 104(e)(2)(A) of the

Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA") (EPA may request information "relevant to . . . [t]he identification, nature, and quantity of materials which have been . . . transported to a . . . facility").

The RFI also defined "COCs" as "any of the contaminants of concern at the Site and includes: lead, zinc, mercury, dichlorodiphenyltrichloroethane ("DDT"), chlordane, dieldrin, and polychlorinated biphenyls ("PCBs")." However, certain RFI requests also seek information regarding hazardous substances more broadly. These requests go beyond the specific chemicals for which EPA purports to have evidence of a release or threatened release to the environment at the Site and are not relevant to the Site pursuant to Section 104(e)(2)(A) of CERCLA.

#### GENERAL OBJECTIONS

Syngenta asserts the following general privileges, protections and objections with respect to the RFI and each information request therein.

1. Syngenta asserts all privileges and protections it has in regard to the documents and other information sought by EPA, including the attorney-client privilege, the attorney work product doctrine, all privileges and protections related to materials generated in anticipation of litigation, the settlement communication protection, the confidential business information ("CBI") and trade secret protections, and any other privilege or protection available to it under law. In the event that a privileged or protected document has been inadvertently included among the documents produced in response to the RFI, Syngenta asks that any such document be returned to Syngenta immediately and here states for the record that it is not thereby waiving any available privilege or protection as to any such document.
2. In the event that a document containing CBI or trade secrets has been inadvertently included among the numerous documents provided in response to the RFI, Syngenta asks that any such documents be returned to Syngenta immediately so that Syngenta may resubmit the document in accordance with the applicable requirements for the submission of Confidential Information.
3. Syngenta objects to any requirement to produce documents or information already in the possession of a government agency, including but not limited to DTSC, or already in the public domain. As noted above, DTSC conducted an extensive investigation of the BAD Site and Syngenta's operations in connection with it. DTSC's investigation included an information request to Sandoz Agro, Inc. regarding drums sent to BAD by Zoecon Corp., and the DTSC files include Sandoz Agro, Inc.'s Response to DTSC's information request. EPA is already in possession of DTSC's files regarding the BAD Site, and to the extent that EPA is not in possession of these files, they are readily available to EPA. Notwithstanding this objection, and without waiving it, Syngenta has produced certain information or documents in its possession, custody, or control that it or its predecessor Sandoz Agro, Inc. previously provided to or obtained from government agencies that contain information responsive to the RFI.

4. Syngenta objects to Instruction 4 to the extent it seeks to require Syngenta, if information responsive to the RFI is not in its possession, custody, or control, to identify any and all persons from whom such information "may be obtained." Syngenta is aware of no obligation that it has under Section 104(e) of CERCLA to identify all other persons who may have information responsive to EPA information requests and is not otherwise in a position to identify all such persons who may have such information.
5. Syngenta objects to Instruction 5 on the ground that EPA has no authority to impose a continuing obligation on Syngenta to supplement these responses. Syngenta will, of course, comply with any lawful future requests that are within EPA's authority.
6. Syngenta objects to Instruction 6 in that it purports to require Syngenta to seek and collect information and documents in the possession, custody or control of individuals not within the custody or control of Syngenta. EPA lacks the authority to require Syngenta to seek information not in its possession, custody or control.
7. Syngenta objects to the RFI's definition of "document" or "documents" in Definition 3 to the extent it extends to documents not in Syngenta's possession, custody, or control. Syngenta disclaims any responsibility to search for, locate, and provide EPA copies of any documents "known [by Syngenta] to exist" but not in Syngenta's possession, custody, or control.
8. Syngenta objects to the RFI's definition of "Facility" or "Facilities" in Definition 4 because the terms are overbroad to the extent that they extend to facilities with no connection to either the Site or the BAD Site. Moreover, the term "Facilities" as defined in the RFI is confusing and unintelligible as the term is defined as having separate meanings in Definition 4 and Request No. 3.
9. Syngenta objects to the definition of "identify" in Definition 7 to the extent that the definition encompasses home addresses of natural persons. Subject to this objection, current Syngenta employees and any other natural persons are identified by name and corporate address. Syngenta requests that any contacts with Syngenta employees identified in these responses or the related documents be initiated through Syngenta's in-house counsel, Pat Stavola.
10. Syngenta objects to the definition of "you," "Respondent," and "Syngenta" in Definition 14 because the terms are overbroad and it is not possible for Syngenta to answer questions on behalf of all the persons and entities identified therein. Moreover, as stated above, Syngenta understands that this RFI is directed at relevant information concerning Syngenta's predecessor Zoecon Corp. in particular, and not at other Syngenta predecessors, successors, subsidiaries, affiliates, etc. (of which, as discussed above, there are very many). Notwithstanding this objection, and without waiving it, Syngenta has undertaken a diligent and good faith effort to locate and furnish documents and information in its possession, custody, and control that are responsive to the RFI.

11. Syngenta objects to EPA's requests that Syngenta provide EPA separately information that is contained in documents being furnished by Syngenta in response to the RFI. Where documents have been provided in connection with a response, information sought by EPA in the corresponding request for information that is set forth in those documents is not furnished separately. To do otherwise would be unduly burdensome.

#### RESPONSES TO OCTOBER 15, 2009 EPA INFORMATION REQUESTS

1. *Describe generally the nature of the business conducted by Respondent and identify the products manufactured, formulated, or prepared by Respondent throughout its history of operations.*

Response to No. 1:

Zoecon Corp.'s and Sandoz Agro, Inc.'s operations at the East Palo Alto facility consisted of the manufacture and formulation of organic and inorganic pesticides and herbicides.

2. *Provide the name (or other identifier) and address of any facilities where Respondent carried out operations between 1940 and 1988 (the "Relevant Time Period") and that:*
  - a. *ever shipped drums or other containers to the BAD Site for recycling, cleaning, reuse, disposal, or sale.*
  - b. *are/were located in California (excluding locations where ONLY clerical/office work was performed);*
  - c. *are/were located outside of California and shipped any drums or other containers to California for recycling, cleaning, reuse, disposal, or sale (for drums and containers that were shipped to California for sale, include in your response only transactions where the drums and containers themselves were an object of the sale, not transactions where the sole object of the sale was useful product contained in a drum or other container).*

Response to No. 2:

In addition to the General Objections set forth above, Syngenta objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. As stated in the RFI, "EPA is seeking to identify parties that have or may have contributed to contamination at the Site." However, in addition to facilities with a connection to the BAD Site, Request No. 2 purports to also seek information regarding *any* Zoecon Corp. facility located in California (excluding locations where ONLY clerical/office work was performed) and *any* facility located outside of California that shipped drums or other containers to *any* Zoecon Corp. location in California, even to locations other than the BAD Site. These other facilities have no nexus with the BAD Site, and thus this request seeks information that is not relevant to the Site.

Notwithstanding the foregoing, and without any waiver of its objections, Syngenta is providing EPA with certain information and documents that contain information related to the Zoecon Corp. facility that shipped drums or other containers to the BAD Site. See attachments 1 and 2.

The only Zoecon Corp. facility in California that shipped drums or other containers to the BAD site was the facility located at 1990 Bay Road, East Palo Alto, California 94303. Zoecon Corp. and Sandoz Agro, Inc. owned and operated two other facilities in California during the relevant time period. Syngenta has not located any records concerning either facility; the following information is based on the recollections of John Licata. One was a research and development facility located in Palo Alto, California. No production or manufacturing was done at this facility, only laboratory operations using small amounts of chemicals. The other facility was located in Wasco, California and manufactured the biological pesticide *Bacillus Thurengensis*. This facility also used only a limited number and amount of chemicals. Mr. Licata's recollection is that at the time Sandoz Agro responded to DTSC's 1992 information request regarding the BAD site, the company's record search included a review of these two facilities and the company's report, attachment 1, would have listed any drum shipments from these facilities. None were listed.

3. *Provide a brief description of the nature of Respondent's operations at each Facility identified in your response to Question 2 (the "Facilities") including:*
- d. the date such operations commenced and concluded; and*
  - e. the types of work performed at each location over time, including but not limited to the industrial, chemical, or institutional processes undertaken at each location.*

Response to No. 3:

In addition to the General Objections set forth above, Syngenta objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. In particular, but without limiting the generality of the foregoing objection, Syngenta objects to the request in (b.) that it describe "types of work performed at each location over time . . . ." Without an identification by EPA of the types of work it is referring to, it would be virtually impossible, given the broad nature of possible work at various facilities, to describe each and every type of work that was performed at any facility. To the extent that EPA seeks information about facilities that have no nexus with the BAD Site, this request is not relevant to the Site.

Notwithstanding the foregoing, and without any waiver of its objections, Syngenta is providing EPA with certain information and documents that contain information related to the Zoecon Corp. facility that shipped drums or other containers to the BAD Site. See attachments 1 and 2.

As stated above, Zoecon's and Sandoz Agro's operations at the East Palo Alto facility consisted of the manufacture and formulation of organic and inorganic pesticides and herbicides. Zoecon commenced operations at this facility in 1972. Sandoz Agro continued operations after the purchase of Zoecon by Sandoz in 1984. Sandoz Agro ceased operations at the facility in 1993 when it sold the land to Rhone-Poulenc and the fixtures and improvements to Catalytica, Inc. The 1993 purchase and sale agreement, attachment 2, provides some additional information concerning the operations in the 1970s, 1980s, and early 1990s, including chemical use inventories.

- 4. *For each Facility, describe the types of records regarding the storage, production, purchasing, and use of Substances of Interest ("SOI") during the Relevant Time Period that still exist and the periods of time covered by each type of record.***

Response to No. 4:

In addition to the General Objections set forth above, Syngenta objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome to the extent it seeks to require Syngenta to describe "types of records." Where documents have been provided in response to this RFI, each and every document regarding SOIs is not also "identified" by describing its contents. Syngenta further objects to Request No. 4 as it purports to seek information relating to hazardous substances beyond the specific chemicals for which EPA purports to have evidence of a release or threatened release to the environment at the Site and that is not relevant to the Site; thus Syngenta has limited its review of documents and information to the COCs identified by EPA.

Notwithstanding the foregoing, and without any waiver of its objections, Syngenta is providing EPA with certain information and documents that contain information related to the Zoecon Corp. facility that shipped drums or other containers to the BAD Site. See attachments 1 and 2. Syngenta has been unable to locate any other documents responsive to this request.

- 5. *Did Respondent ever (not just during the Relevant Time Period) produce, purchase, use, or store one of the COCs (including any substances or wastes containing the COCs) at any of the Facilities? State the factual basis for your response.***

Response to No. 5:

In addition to the General Objections set forth above, Syngenta objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. By removing any temporal limit and any nexus between COCs at Zoecon Corp.'s facilities and the BAD Site, Request No. 5 purports to seek information relating to Zoecon Corp.'s facilities that is not relevant to contamination at the Site.

Based on the very limited documents Syngenta has been able to locate (all of which are attached) and the recollections of John Licata, the only COC that Zoecon or Sandoz Agro ever

used or stored at the East Palo Alto facility was zinc chloride. Exhibit F of the 1993 purchase agreement, the "Historical Chemical List," indicates that 200 pounds of zinc chloride was used as a "reactant-inorganic" between 1977 and 1979. See attachment 2. Syngenta has no information suggesting that any COC was ever used, stored, etc. at the Palo Alto or Lucas facilities.

6. *If the answer to Question 5 is yes, identify each COC produced, purchased, used, or stored at each Facility.*

Response to No. 6:

See response to No. 5.

7. *If the answer to Question 5 is yes, identify the time period during which each COC was produced, purchased, used, or stored at each Facility.*

Response to No. 7:

See Response to No. 5. Syngenta has no more specific information.

8. *If the answer to Question 5 is yes, identify the average annual quantity of each COC produced, purchased, used, or stored at each Facility.*

Response to No. 8:

See response to No. 7.

9. *If the answer to Question 5 is yes, identify the volume of each COC disposed by the Facility annually and describe the method and location of disposal.*

Response to No. 9:

Syngenta has no information regarding disposal of the zinc chloride, or even whether any zinc chloride was disposed of.

10. *Did Respondent ever (not just during the Relevant Time Period) produce, purchase, use, or store hydraulic oil or transformer oil at any of the Facilities? State the factual basis for your response to this question.*

Response to No. 10:

In addition to the General Objections set forth above, Syngenta objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. By removing any temporal limit and any nexus between hydraulic oil or transformer oil at Zoecon Corp.'s facilities and the BAD Site, Request No. 10 purports to seek information relating



to Syngenta's Facilities that is not relevant to contamination at the Site. Syngenta also objects to the lack of any definition of the terms "hydraulic oil" and "transformer oil."

Notwithstanding the foregoing and without waiving any objections, the very limited information Syngenta has obtained indicates that transformers and transformer oil were not present at the East Palo Alto facility. The 1993 purchase and sales agreement and its attachments contain no references to transformers or to PCBs as contaminants of concern at the facility, and it is unlikely that they would have been overlooked had they been present. The chemical use index in that agreement does refer to a variety of oils used as "maintenance chemicals" at the facility between 1984 and 1988. See attachment 2. It is not clear that any of the listed oil products are "hydraulic oil."

- 11. *If the answer to Question 10 is yes, identify each specific type of hydraulic oil and transformer oil produced, purchased, used, or stored at each Facility.***

*Response to No. 11:*

See response to No. 10, and attachment 2.

- 12. *If the answer to Question 10 is yes, identify the time period during which each type of hydraulic oil and transformer oil was produced, purchased, used, or stored.***

*Response to No. 12:*

See response to No. 10, and attachment 2.

- 13. *If the answer to Question 10 is yes, identify the average annual quantity of each type hydraulic oil and transformer oil purchased, produced, used, or stored at each Facility.***

*Response to No. 13:*

See response to No. 10, and attachment 2.

- 14. *If the answer to Question 10 is yes, identify the volume of each hydraulic oil and transformer oil disposed by the Facility annually and describe the method and location of disposal.***

*Response to No. 14:*

See response to No. 10, and attachment 2. Syngenta has no information regarding disposal of any of the listed oil products.

**15. Provide the following information for each SOI (SOIs include any substance or waste containing the SOI) identified in your responses to Questions 5 and 10:**

- f. Describe briefly the purpose for which each SOI was used at the Facility. If there was more than one use, describe each use and the time period for each use;**
- g. Identify the supplier(s) of the SOIs and the time period during which they supplied the SOIs, and provide copies of all contracts, service orders, shipping manifests, invoices, receipts, canceled checks and other documents pertaining to the procurement of the SOI;**
- h. State whether the SOIs were delivered to the Facility in bulk or in closed containers, and describe any changes in the method of delivery over time;**
- i. Describe how, where, when, and by whom the containers used to store the SOIs (or in which the SOIs were purchased) were cleaned, removed from the Facility, and/or disposed of, and describe any changes in cleaning, removal, or disposal practices over time.**

**Response to No. 15:**

In addition to the General Objections set forth above, Syngenta objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. Request No. 15 purports to seek information relating to Zoecon Corp.'s facilities that is not relevant to contamination at the Site.

Notwithstanding the foregoing and without waiving any objections, Syngenta has no information responsive to this request beyond the limited documentation in the 1993 agreement, attachment 2.

**16. For each SOI delivered to the Facilities in closed containers, describe the containers, including but not limited to:**

- j. the type of container (e.g. 55 gal. drum, tote, etc.);**
- k. whether the containers were new or used; and**
- l. if the containers were used, a description of the prior use of the container.**

**Response to No. 16:**

In addition to the General Objections set forth above, Syngenta objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. Request No. 16 purports to seek information relating to Zoecon Corp.'s facilities that is not

relevant to contamination at the Site. See response to No. 15. In any event, Syngenta has no information that is responsive to this request.

**17. For each container that Respondent used to store a SOI or in which SOIs were purchased ("Substance-Holding Containers" or "SHCs") that was later removed from the Facility, provide a complete description of where the SHCs were sent and the circumstances under which the SHCs were removed from the Facility. Distinguish between the Relevant Time Period and the time period since 1988, and describe any changes in Respondent's practices over time.**

Response to No. 17:

In addition to the General Objections set forth above, Syngenta objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. Syngenta further objects to Request No. 17 as it assumes that each SHC is somehow individually identified, tracked, and used and reused by the same entity throughout the life of the SHC. There is no evidence that BAD operated in this way or that it tracked SHCs for its customers such that this information is available. Generally, SHCs, such as drums sent to drum reconditioners by a customer, are fungible commodities and are not individually tagged or tracked to ensure their return to that particular customer. Accordingly, Request No. 17 purports to seek information that does not exist.

Syngenta further objects to Request No. 17 as it purports to seek information relating to hazardous substances beyond the specific chemicals for which EPA purports to have evidence of a release or threatened release to the environment at the Site and that is not relevant to the Site; thus Syngenta has limited its review of documents and information to the COCs identified by EPA.

Additionally, as stated in the RFI, "EPA is seeking to identify parties that have or may have contributed to contamination at the Site." However, Request No. 17 purports to seek information regarding SHCs that were sent to sites other than the BAD Site. To the extent that EPA seeks information about facilities that have no nexus with the BAD Site, this request is not relevant to the Site.

Notwithstanding the foregoing, and without any waiver of its objections, Syngenta is providing EPA with certain information and documents that contain information related to the Zoecon Corp. facility that shipped drums or other containers to the BAD Site. Specifically, see attachment 1, Sandoz Agro's 1992 response to DTSC. Syngenta has no additional information regarding drum management at the East Palo Alto facility.

- 18. For each SHC that was removed from the Facility, describe Respondent's contracts, agreements, or other arrangements under which SHCs were removed from the Facility, and identify all parties to each contract, agreement, or other arrangement described. Distinguish between the Relevant Time Period and the time period since 1988.**

Response to No. 18:

See response to No. 17.

- 19. For each SHC, provide a complete explanation regarding the ownership of the SHC prior to delivery, while onsite, and after it was removed from the Facility. Distinguish between the Relevant Time Period and the time period since 1988, and describe any changes in Respondent's practices over time.**

Response to No. 19:

See response to No. 17.

- 20. Identify all individuals who currently have, and those who have had, responsibility for procurement of Materials at the Facilities. Also provide each individual's job title, duties, dates performing those duties, current position or the date of the individual's resignation, and the nature of the information possessed by each individual concerning Respondent's procurement of Materials.**

Response to No. 20:

In addition to the General Objections set forth above, Syngenta objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. Notwithstanding the foregoing and without waiving any of its objections, Syngenta lacks information responsive to this request. As already stated, the East Palo Alto facility was last occupied or operated by Zoecon or Sandoz Agro in 1993, so there are no Syngenta employees who currently have any responsibilities of any kind with respect to the facility. Syngenta is unaware of the identities and responsibilities of the persons who had responsibilities for procurement of materials between 1972 and 1993.

- 21. Describe how each type of waste containing any SOIs was collected and stored at the Facilities prior to disposal/recycling/sale/transport, including:**

**m. the type of container in which each type of waste was placed/stored;**

**n. how frequently each type of waste was removed from the Facility; Distinguish between the Relevant Time Period and the time period since 1988, and describe any changes in Respondent's practices over time.**

*Response to No. 21:*

In addition to the General Objections set forth above, Syngenta objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. As stated in the RFI, "EPA is seeking to identify parties that have or may have contributed to contamination at the Site." However, Request No. 21 purports to seek information regarding collection and storage of "any SOIs" at facilities other than the BAD Site. To the extent that EPA seeks information about facilities that have no nexus with the BAD Site, this request is not relevant to the Site.

In any event, Syngenta has no information responsive to this request.

**22. *Describe the containers used to remove each type of waste containing any SOIs from the Facilities, including but not limited to:***

- o. the type of container (e.g. 55 gal. drum, dumpster, etc.);*
- p. the colors of the containers;*
- q. any distinctive stripes or other markings on those containers;*
- r. any labels or writing on those containers (including the content of those labels);*
- s. whether those containers were new or used; and*
- t. if those containers were used, a description of the prior use of the container;*

***Distinguish between the Relevant Time Period and the time period since 1988, and describe any changes in Respondent's practices over time.***

*Response to No. 22:*

In addition to the General Objections set forth above, Syngenta objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. Syngenta further objects to Request No. 22 as it assumes that each SHC is somehow individually identified, tracked, and used and reused by the same entity throughout the life of the SHC. There is no evidence that BAD operated in this way or that it tracked SHCs for its customers such that this information is available. Generally, SHCs, such as drums sent to drum reconditioners by a customer, are fungible commodities and are not individually tagged or tracked to ensure their return to that particular customer. Accordingly, Request No. 22 purports to seek information that does not exist.

As stated in the RFI, "EPA is seeking to identify parties that have or may have contributed to contamination at the Site." Moreover, the RFI defined "COCs" as "any of the

contaminants of concern at the Site and includes: lead, zinc, mercury, DDT, chlordane, dieldrin, and PCBs. Syngenta further objects to Request No. 22 as it purports to seek information relating to hazardous substances beyond the specific chemicals for which EPA purports to have evidence of a release or threatened release to the environment at the Site and that is not relevant to the Site. Additionally, Syngenta objects to Request No. 22 as it purports to seek information regarding containers used to remove each type of waste containing any SOIs from any facility and taken to *any* other place during *any* time. To the extent that EPA seeks information about facilities that have no nexus with the BAD Site, this request is not relevant to the Site.

Notwithstanding the foregoing, and without any waiver of its objections, the only information Syngenta has regarding drums at the former East Palo Alto facility is contained in attachment 1, Sandoz Agro's 1992 response to DTSC.

- 23. *For each type of waste generated at the Facilities that contained any of the SOIs, describe Respondent's contracts, agreements, or other arrangements for its disposal, treatment, or recycling and identify all parties to each contract, agreement, or other arrangement described. State the ownership of waste containers as specified under each contract, agreement, or other arrangement described and the ultimate destination or use for such containers. Distinguish between the Relevant Time Period and the time period since 1988, and describe any changes in Respondent's practices over time.***

*Response to No. 23:*

In addition to the General Objections set forth above, Syngenta objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. As stated in the RFI, "EPA is seeking to identify parties that have or may have contributed to contamination at the Site." Moreover, the RFI defined "COCs" as "any of the contaminants of concern at the Site" and includes: lead, zinc, mercury, DDT, chlordane, dieldrin, and PCBs. Syngenta further objects to Request No. 23 as it purports to seek information relating to hazardous substances beyond the specific chemicals for which EPA purports to have evidence of a release or threatened release to the environment at the Site and that is not relevant to the Site. Additionally, Syngenta objects to Request No. 23 as it purports to seek information regarding waste generated at any facility that contained any SOIs and taken to *any* other place during *any* time. To the extent that EPA seeks information about facilities that have no nexus with the BAD Site, this request is not relevant to the Site.

Notwithstanding the foregoing and without waiving any objections, Syngenta states that the only information in its possession concerning waste management and disposal activities at the former East Palo Alto facility is contained in attachments 1 and 2.

- 24. *Identify all individuals who currently have, and those who have had, responsibility for Respondent's environmental matters (including responsibility for the disposal, treatment, storage, recycling, or sale of Respondent's wastes and SHCs). Provide the job title, duties, dates performing those duties, supervisors for those duties, current***

***position or the date of the individual's resignation, and the nature of the information possessed by such individuals concerning Respondent's waste management.***

**Response to No. 24:**

In addition to the General Objections set forth above, Syngenta objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. The only individual of whom Syngenta is aware who had such responsibilities is John Licata. Mr. Licata was Sandoz Agro's corporate Director of HSE and Quality from December 1986 to January 1997. In that capacity, Mr. Licata had overall responsibility for HSE programs and compliance at all Sandoz Agro facilities in the United States, with oversight responsibility for the East Palo Alto facility and correspondingly limited detailed recollections. In his oversight capacity, Mr. Licata directed such projects such as Sandoz Agro's response to DTSC's 1992 information request.

- 25. *Did Respondent ever purchase drums or other containers from a drum recycler or drum reconditioner? If yes, identify the entities or individuals from which Respondent acquired such drums or containers.***

**Response to No. 25:**

In addition to the General Objections set forth above, Syngenta objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. Identifying all drum recyclers or drum reconditioners from which Zoecon Corp. or Sandoz Agro ever acquired such drums or containers for the East Palo Alto facility is not feasible. Syngenta does not have that information.

Notwithstanding the foregoing, and as discussed above, Zoecon Corp. did purchase drums from the Bay Area Drum Company. See attachment 1, Sandoz Agro's 1992 response to DTSC.

- 26. *Prior to 1988, did Respondent always keep its waste streams that contained SOIs separate from its other waste streams?***

**Response to No. 26:**

In addition to the General Objections set forth above, Syngenta objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. Syngenta further objects to Request No. 26 as it purports to seek information relating to hazardous substances beyond the specific chemicals for which EPA purports to have evidence of a release or threatened release to the environment at the Site and that is not relevant to the Site. In any event, Syngenta has no information concerning how the former East Palo Alto facility segregated its wastes, or even whether any SOIs were present in any such wastes.

27. ***Identify all removal and remedial actions conducted pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601 et seq., or comparable state law; all corrective actions conducted pursuant to the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq.; and all cleanups conducted pursuant to the Toxic Substances Control Act, 15 U.S.C. § 2601 et seq. where (a) one of the COCs was addressed by the cleanup and (b) at which Respondent paid a portion of cleanup costs or performed work. Provide copies of all correspondence between Respondent and any federal or state government agency that (a) identifies a COC and (b) is related to one of the above-mentioned sites.***

*Response to No. 27:*

In addition to the General Objections set forth above, Syngenta objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. As stated in the RFI, "EPA is seeking to identify parties that have or may have contributed to contamination at the Site." However, Request No. 27 purports to seek information regarding a broad range of removal and remedial actions, corrective actions and cleanups unrelated to the BAD site or the site. To the extent that EPA seeks information about facilities that have no nexus with the BAD Site, this request is not relevant to the Site. Syngenta further objects to Request No. 27 to the extent that EPA is already in possession of the requested documents, and to the extent that EPA is not in possession of these files, they are readily available to EPA.

Notwithstanding the foregoing, and as you are aware, Sandoz Agro (for Zoecon Corp.) was among many parties that entered into a Consent Decree with DTSC resolving their liability for response costs and remediation at the BAD site. This Consent Decree was approved by the U.S. District Court for the Northern District of California on July 18, 2001, Case No. C 00-4796 PJH.

28. ***Provide all records of communication between Respondent and Bay Area Drum Company, Inc.; Meyers Drum Company; A.W. Sorich Bucket and Drum Company; Waymire Drum Company, Inc.; Waymire Drum and Barrel Company, Inc.; Bedini Barrels Inc.; Bedini Steel Drum Corp.; Bedini Drum; or any other person or entity that owned or operated the facility located at 1212 Thomas Avenue, in the City and County of San Francisco, California.***

*Response to No. 28:*

the only information Syngenta has that is responsive to this request is contained in attachment 1, Sandoz Agro's 1992 response to DTSC.



- 29. *Identify the time periods regarding which Respondent does not have any records regarding the SOIs that were produced, purchased, used, or stored at the Facilities.***

Response to No. 29:

Syngenta produced all the records in its possession regarding the former East Palo Alto facility owned and operated by Zoecon Corp. and Sandoz Agro. These records contain little or no information regarding use, etc. of SOIs at that facility and no evidence that any COC other than zinc chloride was ever present at that facility.

- 30. *Provide copies of all documents containing information responsive to the previous twenty-nine questions and identify the questions to which each document is responsive.***

Response to No. 30:

Syngenta has done so.

Any questions EPA may have regarding these responses may be directed to me at 415/267-4108, or to Ms. Pat Stavola, Syngenta's in-house counsel, at 336/632-7637.

Very truly yours,

MCKENNA LONG & ALDRIDGE LLP

By:   
Christian Volz

Attorneys for Syngenta Crop Protection, Inc.

CV/gmp  
Enclosures